

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

United States of America,)
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Plaintiff,)
)
)
v.) Civil No.
)
)
Arvind Ahuja,)
)
)
Defendant.)

Complaint

The United States complains and alleges that:

1. This is a civil action to reduce to judgment an unpaid federal penalty assessment made against Arvind Ahuja pursuant to 31 U.S.C. § 5321 for his failure to report his interest in foreign financial accounts for calendar year 2009.
2. The United States brings this action pursuant to the provisions of 31 U.S.C. § 3711(g)(4)(C) and in accordance with 31 U.S.C. § 5321(b)(2), with the authorization of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General.
3. Jurisdiction over this action is conferred upon the district court by 28 U.S.C. §§ 1331, 1345, and 1355(a).
4. Venue in this district is proper under 28 U.S.C. §§ 1391(b), 1395(a).
5. Ahuja last resided in Greendale, Wisconsin, within this judicial district.

6. Ahuja is a citizen of the United States and was a citizen of the United States during the 2009 calendar year.
7. Ahuja is a prominent neurosurgeon practicing in Kenosha, Wisconsin. He is certified by the American Board of Neurological Surgery and specializes in treatments for disorders of the brain, spine, arteries and peripheral nerves.
8. In 2008-2009 Ahuja day-traded approximately \$250 million, mainly in stocks, foreign currencies, and futures.
9. During 2009, Ahuja had an interest in at least one foreign bank, securities, or other financial account in which the aggregate balance, at some time during 2009, exceeded \$10,000.
10. In 2009, Ahuja maintained accounts with HSBC India. HSBC India is located in India. Ahuja's main account number was xxx-xx7002.
11. In 2009 Ahuja's HSBC India accounts held approximately 59 Certificates of Deposit in various sub-accounts and in various foreign currencies. Ahuja managed these investments. Ahuja authorized money transfers from his United States bank account to his HSBC India account to buy, and rollover, the CDs. Ahuja also held non-resident ordinary accounts in India.
12. In 2009 the highest aggregate balance in Ahuja's HSBC India accounts was \$9,245,081.
13. Ahuja was required to report his interest in a foreign bank, securities, or other financial account for the 2009 calendar year, to the United States by submitting, by June 30, 2010, a form known as the TD F 90.22-1, Report of

Foreign Bank and Financial Accounts (“FBAR”). 31 U.S.C. § 5314(a); 31

C.F.R. § 1010.350(a).

14. Ahuja did not submit the FBAR by June 30, 2010.
15. On his IRS Form 1040 for 2009, Ahuha checked “no” on that part of Schedule B requiring him to disclose his interest in foreign bank accounts.
16. In August of 2008 and on subsequent dates, Ahuja’s accountant informed Ahuja of his obligation to report his interest in any foreign financial accounts. Ahuja knew or should have known he had a duty to report his interest in the foreign financial accounts.
17. On or about October 8, 2009, Ahuja closed his accounts at HSBC India and directed over \$3 million be deposited in a domestic account in his wife’s name.
18. Ahuja’s failure to submit the FBAR by June 30, 2010 was willful.
19. On July 12, 2017, a delegate of the Secretary of the Treasury timely made an assessment in the amount of \$4,622,540.50, under 31 U.S.C. § 5321, against the defendant, Arvind Ahuja, for his willful failure to submit a FBAR for the year ending December 31, 2009, and assessed both a late-payment penalty of \$63,069.19, under 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 5.5(a), plus interest. The amount assessed under 31 U.S.C. § 5321 is commonly known as a “FBAR Penalty.” The FBAR Penalty assessed is 50% of the account balance on the day of the FBAR violation.

20. The IRS sent Ahuja notice of the FBAR Penalty and related assessments and demand for payment on or about the date of assessment.
21. Despite notice and demand, Ahuja failed to pay the FBAR Penalty assessed against him. In addition to the principal amount of the assessment described above, the defendant, Arvind Ahuja, is liable for a late-payment penalty pursuant to 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 5.5(a), and interest accruing pursuant to law.
22. With interest and other statutory accruals, the amount due with respect to the assessment described above is, as of September 19, 2018, \$5,007,288.38. The United States is entitled to judgment in its favor and against Ahuja in this amount, plus statutory additions including interest according to law.
23. On August 22, 2012, Ahuja was found guilty by a jury in this district for, among other charges, his willful failure to submit a Report of Foreign Bank and Financial Accounts and filing a false income tax return for the year ending December 31, 2009 in the case of *United States v. Arvind Ahuja*, Crim. No. 2:11-cr-00135-CNC (E.D. Wisc.).
24. On February 6, 2013, Arvind Ahuja was sentenced to three years probation, community service, a \$350,000 fine for the false-return offense, and a \$350,000 fine for the FBAR offense

WHEREFORE, the United States seeks the entry of judgment against the defendant, Arvind Ahuja, in the total amount of \$5,007,288.38, plus interest and other

statutory additions accruing after September 19, 2018, plus such other and further relief as the Court deems just and proper.

Dated: December 7, 2018

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney
General

s/Michael R. Pahl
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UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

Plaintiff(s)

V.

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SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you receive it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

STEPHEN C. DRIES, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))

This summons and the attached complaint for (*name of individual and title, if any*):

were received by me on (*date*) _____.

I personally served the summons and the attached complaint on the individual at (*place*):

on (*date*) _____; or

I left the summons and the attached complaint at the individual's residence or usual place of abode with (*name*)
_____, a person of suitable age and discretion who resides there,

on (*date*) _____, and mailed a copy to the individual's last known address; or

I served the summons and the attached complaint on (*name of individual*)
_____ who is designated by law to accept service of process on behalf of (*name of organization*) _____

on (*date*) _____; or

I returned the summons unexecuted because _____; or

Other (*specify*): _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
 THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question
<i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
<i>(Indicate Citizenship of Parties in Item III)</i> |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	SOCIAL SECURITY	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 730 Family and Medical Leave Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 751 Employee Retirement Income Security Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	IMMIGRATION	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 899 Administrative Procedure
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations			Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 448 Education			

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | |
|--|---|--|---|--|---|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation |
|--|---|--|---|--|---|

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):

VI. CAUSE OF ACTION

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

Case 2:18-cv-01934-JPS Filed 12/07/18 Page 1 of 2 Document 1-2

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.